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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/674,911	09/29/2003	Scott R. Watterson	13914.579.11	8978

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EXAMINER

RICHMAN, GLENN E

ART UNIT	PAPER NUMBER
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3764

MAIL DATE	DELIVERY MODE
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11/28/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/674,911

Applicant(s)

WATTERSON ET AL.

Examiner

Glenn Richman

Art Unit

3764

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 September 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 10-34 and 58-69 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 10-34 and 58-69 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

Applicant's election without traverse of Claims 10-34 in the reply filed on 8/2/07 is acknowledged.

Claims 53-57 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 8/2/07.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 10-14, 16-34, 58-69 are rejected under 35 U.S.C. 102(e) as being anticipated by Shea (6050924).

Shea discloses a receptacle that supports at least one storage medium containing exercise programming, said exercise programming comprising (col. 6, lines 61 – et seq.), motivational content (col. 6, lines 61 – et seq.), and (ii) control signals synchronized with said motivational content (col. 6, lines 61 – et seq.); and a wireless transmitter communicably connected with said at least one storage medium and

receiving said exercise programming, said transmitter delivering said programming to the one or more exercise devices (col. 5, lines 1-14).

As for claims 11-14, 16-34, Shea further disclose said control signals are delivered to the one or more exercise devices using at least one of an infrared signal and a radio signal (col. 5, lines 1-14), a base, a stand extending from said base, and a control panel mounted to said stand (fig. 4), said receptacle further comprises an input receptacle that receives said at least one storage medium (col. 6, lines 61 – et seq.), said at least one storage medium comprises one or more of a magnetic storage medium, an optical storage medium, and a flash memory medium (col. 6, lines 23 – et seq.), at least one input port, said input port receiving said exercise programming from a broadcast transmission device (col. 5, lines 1-14), at least one input port, said at least one input port receiving said exercise programming from a computerized output device (col. 5, lines 1-14), said at least one input device comprises at least one control that changes at least one operating parameter of the central control unit (col. 5, lines 1 – et seq.), said at least one output device comprises at least one visual display that depicts a visual representation of said exercise programming (col. 3, lines 40 - et seq.), at least one output device comprises at least one audio device that broadcasts an audio portion of said exercise programming (col. 15, line 15), said wireless carrier signal is a signal selected from the group consisting of an infrared signal or a radio signal (col. 5, lines 1-14).

Shea further discloses a receptacle providing a user interface for the central managing unit (col. 6, lines 61 – et seq.); and a transmitter supported by the receptacle,

the transmitter delivering exercise programming to the one or more exercise devices (col. 5, lines 1-14), at least one storage medium (col. 5, lines 1-14), the at least one storage medium storing the exercise programming (col. 5, lines 1-14), an input receptacle that receives at least one storage medium (col. 6, lines 61 – et seq.), a receptacle providing a user interface for the central unit (col. 6, lines 61 – et seq.); and a transmitter supported by the receptacle, the transmitter delivering exercise programming to the one or more exercise devices, wherein the exercise programming includes motivational content (col. 6, lines 61 – et seq.), the exercise programming includes instructional content (col. 10, lines 27 – et seq.), a central unit for communicating with one or more exercise devices, the central unit comprising: a receptacle providing a user interface for the central unit (col. 2, lines 64 - et seq.); the transmitter is a transceiver for: delivering exercise programming; and receiving feedback signals regarding the performance of exercise at the respective one or more exercise devices (col. 10, lines 27 – et seq.); the exercise programming is delivered to the one or more exercise devices using hardwire connections between the central communications unit and the one or more exercise devices (col. 4, lines 64 - et seq.).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shea in view of Shum.

Shea does not disclose at least one storage medium stores one or more MP3 audio files.

Shum discloses using an MP3 audio file (col. 8, lines 38-45).

It would have been obvious to use Shum's MP3 with Shea, as it is a well known audio device, as taught by Shum, for use of a storage medium.

Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shea in view of Powers.

Shea does not disclose at least one input port, the input port receiving the exercise programming from an Internet address.

Powers discloses receiving the exercise programming from an Internet address (abstract, col. 4, lines 17-24).

It would have been obvious to use an Internet address, as it is old in the art as disclosed by Powers, with Shea's device, for providing another means of transmitting programming.

Response to Arguments

Applicant's arguments filed 9/6/07 have been fully considered but they are not persuasive.

Shea neither teaches nor suggests "an exercise program to be delivered to each of the one or more exercise devices" and a transmitter delivering "said exercise program to each of the one or more exercise devices using a wireless carrier signal."

Rather, Shea teaches and suggests individual programs begin delivered to each exercise apparatus and not a single exercise program delivered to each of the two or more exercise devices. It is therefore inherent that the same program could be delivered to one or more exercise devices, since the user would be using the same profile data.

Shea discloses "The workouts may include the use of one or more of the exercise apparatus terminals in the exercise terminal network In this regard, the system control program and/or the fitness consultant(s) select exercise data for controlling these one or more exercise apparatus terminals. This exercise data may include an exercise program selection, an exercise time, and/or a difficulty level(s) and is selected based exercise data selection criteria which may include, but is not limited to, one or more of the exerciser's profile data, the exerciser's fitness goal data, and data regarding the exerciser's previous workouts."

It is therefore inherent that the same program could be delivered to one or more exercise devices, since the user would be using the same profile data.

Further more Shea discloses the exercise terminal maybe a wireless link (col. 5, lines 1-14).


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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Glenn Richman whose telephone number is 571-272-4981. The examiner can normally be reached on Mon-Thurs.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LoAn Thanh can be reached on (571)272-4966. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Glenn Richman
Primary Examiner
Art Unit 3764